

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ITW Tech Spray, L.L.C.,

Plaintiff,

v.

Tech Spray Management Company, L.L.C.,
Richard Russell and Rita Russell,

Defendants.

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ECF Case

07 C 6676 (PAC)

CIVIL CASE MANAGEMENT
PLAN AND SCHEDULING ORDER

USDS SDNY DOCUMENT ELECTRONICALLY FILED DOC #: _____ DATE FILED: <u>OCT 24 2007</u>
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This Civil Case Management Plan, submitted in accordance with Rule 26(f), Fed. R. Civ. P., is adopted as the Scheduling Order of this Court in accordance with Rule 16(f) Fed. R. Civ. P.

1. All parties do not consent to conducting all further proceedings before a Magistrate Judge, including motions and trial, 28 U.S.C. § 636(c).
2. This case is not to be tried to a jury.
3. Amended pleading may not be filed and additional parties may not be joined except with leave of the Court. Any motion to amend or to join additional parties shall be filed within 60 days from the date of this Order.
4. Initial disclosures pursuant to Rules 26(a)(1), Fed. R. Civ. P. were exchanged on October 16, 2007.
5. All fact discovery shall be completed no later than March 24, 2008.
6. The parties are to conduct discovery in accordance with the Federal Rules of Civil Procedure and the Local Rules of the Southern District of New York. The following interim deadlines may be extended by the written consent of all parties without application to the Court, provided all fact discovery is completed by the date set forth in paragraph 5 above:
 - a. Initial requests for production of documents to be served by: November 7, 2007.
 - b. Interrogatories to be served by November 7, 2007.
 - c. Depositions to be completed by March 24, 2008.
 - d. Requests to Admit to be served no later than February 25, 2008.

7.
 - a. All expert discovery shall be completed no later than May 15, 2008.
 - b. No later than thirty (30) days prior to the date in paragraph 5, i.e., the completion of all fact discovery, the parties shall meet and confer on a schedule for expert disclosures, including reports, production of underlying documents and depositions, provided that (i) plaintiff's expert report(s) shall be due before those of the defendants' expert(s); and (ii) all expert discovery shall be completed by the date set forth in paragraph 7(a).
8. All motions and applications shall be governed by the Court's Individual Practices, including pre-motion conference requirements.
9. All counsel must meet face-to-face at least one hour to discuss settlement within fourteen (14) days following the close of fact discovery.
10.
 - a. Counsel for the parties have discussed an informal exchange of information in aid of an early settlement of this case, and have exchanged limited information during an attempted mediation per the governing contract. The mediation was unsuccessful.
 - b. Counsel for the parties have discussed the use of the following alternate dispute resolution mechanisms for use in this case: (i) a settlement conference before a Magistrate Judge; (ii) participation in the District's Mediation Program; and/or (iii) retention of a privately retained mediator. Counsel for the parties propose the following alternate dispute resolution mechanism for this case: If an alternate dispute resolution mechanism seems appropriate, the parties propose to conduct a settlement conference before a Magistrate Judge.
 - c. Counsel for the parties recommended that the alternate dispute resolution mechanism designated in paragraph b, be employed after the close of fact discovery.
 - d. The use of any alternate dispute resolution mechanism does not stay or modify any date in this Order.
11. The Final Pretrial Submission Date is thirty (30) days following the close of fact and expert discovery (whichever is later). By the Final Pretrial Submission Date, the parties shall submit a Joint Pretrial Order prepared in accordance with the undersigned's Individual Practices and Rule 26(a)(3), Fed. R. Civ P. Any motions in limine (for which the promotion conference requirement is waived) shall be filed by the Final Pretrial Submission Date. Proposed findings of fact and conclusions of law should be submitted by the Final Pretrial Submission Date.

12. Counsel for the parties have conferred and their present best estimate of the length of trial is: 5-7 days.

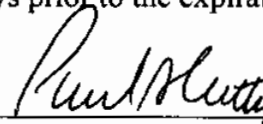
13. **Civil Case Management Plan Requirement**

Motion to amend or join additional parties to be filed by no later than	December 24, 2007
Initial Disclosure pursuant to Rule 26(a)(1), Fed R. Civ. P. to be served no later than	October 16, 2007
All fact discovery to be completed no later than	March 24, 2008
Discovery—initial requests for production of documents to be served no later than:	November 7, 2007
Discovery—interrogatories to be served no later than:	November 7, 2007
Discovery—depositions to be completed no later than:	March 24, 2008
Discovery – requests to admit to be served no later than:	February 25, 2008
All expert discovery to be completed no later than:	May 15, 2008
Parties to meet and confer on scheduled expert disclosures no later than:	April 24, 2008
All counsel to meet face-to-face to discuss settlement no later than:	April 7, 2008
Date recommended by counsel for alternate dispute resolution	April 14, 2008

TO BE COMPLETED BY COURT:

14. The next Case Management is scheduled for January 16, 2008 - 3:00pm.

This ORDER may not be modified or the dates herein extended, except by further Order of this Court for good cause shown. Any application to modify or extend shall be made in a written application in accordance with paragraph 1(E) of the Court's Individual Practices and shall be made no less than two (2) days prior to the expiration of the date sought to be extended.



Paul A. Crotty
United States District Judge

Dated: New York, New York

October 14, 2007